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13 INSURANCE COMPANY

14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 ELIANA R. MORGENSTERN, an individual,

17 Case No. 2:23-cv-01021

18 Plaintiff,

19 vs.

20 STATE FARM MUTUAL AUTOMOBILE
21 INSURANCE COMPANY, a Foreign
22 Corporation; DOES I through XX, inclusive;
23 and ROE BUSINESS ENTITITIES I through
24 XX, inclusive,

25 Defendants.

**JOINT DISCOVERY PLAN AND
SCHEDULING ORDER**

SPECIAL REVIEW REQUESTED

19 Plaintiff, ELIANA R. MORGENSTERN (“Plaintiff”), by and through her counsel of record
20 Paul S. Padda, Esq. and Srilata R. Shah, Esq. of PAUL PADDA LAW, PLLC., and Defendant,
21 STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, (“Defendant”) by and
22 through its counsel of record, M. Caleb Meyer, Esq. and Renee M. Finch, Esq. of MESSNER
23 REEVES, LLP, submit the following Joint Discovery Plan and Scheduling Order (“Plan”). The
24 parties conducted a discovery planning conference on August 2, 2023 and submit the discovery
25 plan for review and approval.

26 The standard discovery plan would end discovery on January 8, 2024, with initial expert
27 disclosures due on November 9, 2023 and rebuttal experts due on December 11, 2023. This matter
28

1 involves allegations of bad faith and thus necessitates corporate discovery to include in-depth
2 written discovery responses and corporate designee deposition(s). The parties are in the process of
3 negotiating an applicable protective order and confidentiality stipulation that will require agreement
4 prior to the disclosure of corporate policies and procedures. The claims file contains over 1,100
5 pages that will require redaction and the creation of an appropriate privilege log. For the parties to
6 adequately prepare their claims and defenses related to the bad faith allegations, all the appropriate
7 documents must be disclosed, reviewed, and sent to various experts. Plaintiff will request various
8 corporate documents that will have to be internally identified and properly redacted prior to
9 production. Typically, production of internal confidential and proprietary claims documents can
10 include documents in the thousands of pages. This portion of the file alone is anticipated to take
11 several months.

12 Further, both parties seek to identify and retain expert witnesses in preparation for the trial
13 in this matter. Given that the expert disclosure dates are fast approaching on the standard schedule
14 and the rebuttal timeframe includes the Thanksgiving holiday, both parties anticipate that there will
15 be a request for additional time. To avoid a future request of that nature, the parties have agreed to
16 submit a plan that contemplates nine (9) months of discovery instead of the standard six (6) month
17 timeframe.

18 1. **Changes in the timing, form or requirements for Rule 26(a) Disclosures:** The
19 parties have agreed the Rule 26(a) disclosure deadline is August 16, 2023.

20 2. **Subjects on which discovery may be made:** The parties envision propounding
21 written discovery, disclosing policies and procedures pursuant to protective order, conducting
22 depositions of treating physicians, parties, corporate 30(b)(6) designees, and disclosed experts, and
23 obtaining all relevant records through use of subpoena. The parties also may conduct further
24 discovery as may be allowed under the Federal Rules of Civil Procedure relating to the allegations
25 set forth in Plaintiff's Complaint and Defendant's Answer.

26 3. **Changes to limitations on discovery:** None.

27 4. **Discovery of electronically stored information:** The parties have implemented

litigation holds and taken other reasonable measures to preserve relevant documents, including electronically stored information (“ESI”), that are maintained in locations and systems where such relevant information is likely to be found in accordance with the Rules.

5. **Proposed Discovery Schedule for Special Review:**

- 6. a. Close of Discovery: April 10, 2024
- 7. b. Amend pleadings and add parties: January 10, 2024
- 8. c. Initial Expert Disclosures: February 9, 2024
- 9. d. Rebuttal Expert Disclosures: March 11, 2024
- 10. e. Dispositive Motions: May 10, 2024
- 11. f. Pretrial Order: June 10, 2024*

12 *In the event that dispositive motions are filed, the date for filing the joint pretrial order will
 13 be suspended until thirty (30) days after decision of the dispositive motions or further order of the
 14 Court.

15 6. **Federal Rule of Civil Procedure 26(a)(3) Disclosures:** All disclosures required by
 16 Fed.R.Civ.P. Rule 26(a)(3) and any objections shall be included in the pretrial order submitted
 17 pursuant to Paragraph 5 above. Said disclosures, and any objections thereto, must be made and
 18 implemented into the pretrial order no later than set forth in Paragraph 5.

20 7. **Alternative dispute resolution:** The parties certify that they met and conferred
 21 about the possibility of using alternative dispute resolution processes including mediation,
 22 arbitration and, if applicable, early neutral evaluation. The parties agreed alternative resolution is
 23 not feasible at this time, but they will revisit these possibilities in the future.

25 8. **Alternative forms of case disposition:** The parties certify that they considered
 26 consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed.R.Civ.P. 73 and the use of
 27 the Short Trial Program (General Order 2013-01). The parties agree that trial by magistrate and the
 28

1 Short Trial Program are not appropriate for this case.

2 9. **Electronic evidence:** The parties certify that they discussed the presentation of
3 electronic evidence to the jury at trial. At this stage they are unable to ascertain the need for
4 electronic evidence and stipulate to meeting and conferring sixty (60) days in advance of trial to
5 reach an agreement and protocol for such evidence, if needed.

6 IT IS RESPECTFULLY SUBMITTED.

7 Dated this 3rd day of August, 2023.

8 MESSNER REEVES, LLP.

9 */s/ Renee Finch*

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17 Dated this 3rd day of August, 2023.

18 PAUL PADDA LAW, PLLC.

19 */s/ Srilata Shah*

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26 *Attorneys for Plaintiff*

27 IT IS SO ORDERED

28 

29 UNITED STATES MAGISTRATE JUDGE
30 DATED: August 4, 2023

31 Prepared and submitted by:

32 MESSNER REEVES, LLP

33 */s/ Renee Finch*

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